

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1600

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state university, **college, or junior college** police officer appointed under IC 20-12-3.5.
- (13) **A police officer whose employer purchases coverage under section 4.5 of this chapter.**
- ~~(13)~~ (14) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in

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IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

~~(14)~~ **(15)** A firefighter who is employed by the fire department of a state university.

(16) A firefighter whose employer purchases coverage under section 4.5 of this chapter.

SECTION 2. IC 5-10-10-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: **Sec. 4.5. (a) As used in this section, "eligible officer" means a police officer or firefighter whose employer purchases coverage under this section.**

(b) As used in this section, "employer" means:

(1) with respect to a police officer, a university, college, or junior college, other than a state university, state college, or state junior college, that appoints a police officer under IC 20-12-3.5; or

(2) with respect to a firefighter, a university, other than a state university, located in Indiana that:

(A) maintains a fire department;

(B) employs firefighters for the fire department; and

(C) is accredited by the North Central Association.

(c) If an employer purchases coverage for an eligible officer, the eligible officer is eligible for a special death benefit from the fund in the same manner that any other public safety officer is eligible for a special death benefit from the fund. The cost of the coverage shall be one hundred dollars (\$100) for each eligible officer annually. The cost of the coverage shall be paid to the board for deposit in the fund.

(d) If an employer elects to provide coverage under this section, the employer must purchase coverage for all eligible officers of the employer. The board shall allow an employer to purchase coverage by making quarterly payments on dates prescribed by the board.

SECTION 3. IC 5-10-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004 (RETROACTIVE)]: **Sec. 5.**

(a) The special death benefit fund is established for the purpose of paying lump sum death benefits under section 6 of this chapter. The fund consists of the fees remitted to the auditor of state board under ~~IC 35-33-8-3.2~~ section 4.5 of this chapter. The fund shall be administered by the board. The expenses of administering the fund shall be paid from money in the fund.

(b) The board shall invest the money in the fund not currently

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needed to meet the obligations of the fund in the same manner as the board's other funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 4. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

- (A) execute a bail bond with sufficient solvent sureties;
- (B) deposit cash or securities in an amount equal to the bail;
- (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
- (D) post a real estate bond.

The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

- (A) Fines, costs, fees, and restitution as ordered by the court.
- (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
- (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

(D) The fee required by subsection (d).

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under

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subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public

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employees' retirement fund for deposit in the the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(d) (e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day **and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.**

(e) (f) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the board of trustees of the public employees' retirement fund.

(b) As used in this SECTION, "eligible officer" means a police officer or firefighter whose employer purchases coverage under this SECTION.

(c) As used in this SECTION, "employer" means:

- (1) with respect to a police officer, a university, college, or junior college, other than a state university, state college, or state junior college, that appoints a police officer under IC 20-12-3.5; or
- (2) with respect to a firefighter, a university, other than a state university, that:
 - (A) is located in Indiana;
 - (B) maintains a fire department;
 - (C) employs firefighters for the fire department; and
 - (D) is accredited by the North Central Association.

(d) As used in this SECTION, "fund" refers to the special death benefit fund established by IC 5-10-10-5, as amended by this act.

(e) Not later than June 30, 2005, an employer may remit payment to the board to purchase coverage under IC 5-10-10-4.5, as added by this act, for all eligible officers employed by the employer during the period beginning July 1, 2004, and ending June 30, 2005. If a payment is remitted in accordance with this subsection, a special death benefit shall be paid from the fund under IC 5-10-10, as amended by this act, for any eligible officer who dies in the line of duty during the period beginning July 1, 2004, and ending June 30, 2005.

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(f) This SECTION expires July 1, 2006.

SECTION 6. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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